

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:10-cv-00439-FDW-DCK

LENDINGTREE, LLC, a Delaware)
limited liability company,)

Plaintiff,)

vs.)

ORDER

ZILLOW, INC., a Washington)
corporation; and NEXTAG, INC., a)
Delaware corporation;)

Defendants.)

THIS MATTER is before the Court on LendingTree's Motion for Disallowance of Zillow's Costs (Doc. No. 686), which was filed in response to Zillow's Bill of Costs (Doc. No. 681). Zillow responded in opposition to LendingTree's motion (Doc. No. 689). LendingTree has moved for leave to file a reply in support of its motion (Doc. No. 691), but because the Court feels an adequate record for review exists, that motion is DENIED. Having carefully considered the arguments, the record properly before this Court, and the applicable authority, the Court will GRANT IN PART and DENY IN PART LendingTree's Motion for Disallowance of Zillow's Costs.

Zillow seeks to recover costs for daily copies of transcripts during trial. Pursuant to the Bill of Costs Handbook produced by the Office of the Clerk for the Western District of North Carolina, these costs are only recoverable where the copy was produced "solely for the convenience of counsel, **unless prior court approval was obtained.**" (Bill of Costs Handbook, February 10, 2003, p. 9) (emphasis in original). Here, Zillow's counsel never sought prior

approval for daily copy. Instead, counsel for all parties ordered daily copies of transcripts prior to trial and without any involvement by the Court. The Court's references to the daily transcripts during the course of trial are insufficient to establish the daily copy was produced for anything other than convenience of counsel. Therefore, these costs (\$12,801.80) are disallowed.

Turning to the other costs sought by Zillow, the Court finds that these costs are allowed under applicable authority. Thus, the remainder of LendingTree's Motion to Disallow is DENIED.

IT IS THEREFORE ORDERED that LendingTree's Motion for Leave to File a Reply (Doc. No. 691) is DENIED, and LendingTree's Motion for Disallowance of Costs (Doc. No. 686) is GRANTED IN PART and DENIED IN PART. Zillow should promptly submit a revised Bill of Costs to the Clerk for signature.

IT IS SO ORDERED.

Signed: January 27, 2015

A handwritten signature in black ink, appearing to read "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

